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EXAMINER

BROWN, RUEBEN M

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ALAIN DELPUCH

Appeal 2009-011033
Application 09/980,271
Technology Center 2400

Before CARLA M. KRIVAK, THOMAS S. HAHN, and
ELENI MANTIS MERCADER, *Administrative Patent Judges*.

HAHN, *Administrative Patent Judge*.

DECISION ON APPEAL¹

Appellant invokes our review under 35 U.S.C. § 134(a) from the final rejection of claims 1-11. We have jurisdiction under 35 U.S.C. § 6(b). We reverse.

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE²

Appellant claims an interactive information system and method for authenticating a user Personal Identification Number (PIN) code. A security manager is configured to receive a request for user authentication from an application. A user PIN code is entered using an input device, and at the security manager the entered PIN code is compared to a registered PIN code. The entered PIN code is not supplied to the application. If the entered and registered PIN codes match, the security manager gives authorization for the application to run.³ Claim 1 is illustrative:

1. A system for authenticating a PIN code of a user in an interactive information system in order to run an application, the system comprising:

an input device for entering a PIN code of a user;

a security manager configured to:

receive a request for user authentication from the application;

compare a received PIN code of the user with a registered PIN code, in response to said request;

supply information to the application about PIN code entering key-pressing operations by the user, wherein the entered PIN code is not supplied to the application; and

² Throughout this opinion we refer for their respective details to the Specification filed Nov. 30, 2001, Appeal Brief filed May 7, 2007, Examiner's Answer mailed Sept. 7, 2007, and Reply Brief filed Nov. 7, 2007.

³ See *generally* Abstract; Fig. 3.

give authorization to run said application if the PIN code of the user matches the registered PIN code;

wherein the application is configured to present a PIN entry field, wherein crypted information corresponding to said information about PIN code entering key-pressing operations received from the security manager is displayed in the PIN entry field.

The Examiner relies on the following prior art to reject the claims on appeal:⁴

Patterson	US 6,122,741	Sep. 19, 2000
Raduchel	US 6,338,138 B1	Jan. 8, 2002

Claims 1-11 are rejected under 35 U.S.C. § 103(a) as unpatentable over Raduchel and Patterson (Ans. 4-6).

ISSUE

With respect to the rejection of claims 1-4 and 7-11, Appellant, *inter alia*, argues that the independent claims recite that an entered PIN code is not supplied to an application (App. Br. 14; Reply Br. 4, 5). The Examiner responds that “there is no language recited in claims that support[s] such a requirement” (Ans. 8).

The dispositive issue is whether the Examiner erred in interpreting the independent claims as being broad enough to read on having an entered PIN code supplied to an application as disclosed in Raduchel.

⁴ Effective filing dates for these documents precede Appellant’s earliest effective filing date and are not at issue.

PRINCIPLES OF LAW

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *See In re Royka*, 490 F.2d 981, 985 (CCPA 1974).

The scope of claimed limitations is determined by giving the terms in claims their ordinary and accustomed meaning while interpreting the claims as broadly as is reasonable and consistent with the specification. *See In re Thrift*, 298 F.3d 1357, 1364 (Fed. Cir. 2002).

The Examiner's articulated reasoning in the rejection must possess a rational underpinning to support the legal conclusion of obviousness. *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). The Supreme Court stated that "rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR Int'l v. Teleflex, Inc.*, 550 U.S. 398, 418 (2007) (quoting *Kahn*, 441 F.3d at 988).

ANALYSIS

Claims 1-4 and 7-11

Appellant's argument *supra* that independent claims 1, 4, and 9 recite that an entered PIN code is not supplied to an application (App. Br. 14; Reply Br. 4, 5) is persuasive. Indeed, we find that each of these claims *verbatim* recites "the entered PIN code is not supplied to the application."

The Examiner responds that:

[I]t is noted that the claims do not recite any entity that receives the PIN (on the front end), i.e., directly from the input device and delivers the PIN to the claimed “security manager”. Thus the claims are broad enough to read on the security manger receiving the PIN code from some other entity, (including an intermediary or the application itself) and then comparing the received PIN code, with the stored value, as recited.

(Ans. 8.) In conclusion, the Examiner asserts that “though Appellant has argued throughout that PIN code is hidden from the application, there is no language recited in claims that support such a requirement” (*id.*).

We find the Examiner’s position unavailing because each independent claim recites that “the entered PIN code is not supplied to the application.” We agree with the Examiner’s interpretation that “the claims are broad enough to read on the security manager receiving the PIN code from some other entity” (*Id.*). However, we disagree that the claims are broad enough to read on that entity being the “application” because the claims specifically exclude the PIN code from being supplied to the application.

This recited limitation to exclude the PIN code from being supplied to the application must be taught or suggested by the relied on prior art to establish obviousness. *See Royka*, 490 F.2d at 985. We do not find that the Examiner has identified such an exclusion as being taught or suggested in the relied on prior art. In fact, we find the relied on art teaches the opposite.

The Examiner finds “the claimed ‘application’ is broad enough to read on the [Raduchel] browser or any of the services that the user seeks to access” (Ans. 5). The Examiner further finds Raduchel teaches the recited security manager comparing received and registered PIN codes at column 3, lines 25-40. (*Id.*) Reviewing those disclosures, we find Raduchel teaches

running a browser with an applet so a user can enter log-in information, e.g., a PIN code, and upon the information being entered, the applet transfers the information to an authentication manager, i.e., a security manager.

Consequently, we find the PIN code is supplied to Raduchel's browser with the applet, i.e., the application, for transfer to the security manager.

Raduchel's deficiency in supplying the PIN code to the application is not cured by Patterson.

For the foregoing reasons, Appellant has persuaded us of error with respect to the rejection under § 103(a) of independent claims 1, 4, and 9. We, accordingly, will not sustain the Examiner's rejection of their dependent claims 2-4 and 7-11 for similar reasons. *In re Fine*, 837 F.2d 1071, 1076 (Fed. Cir. 1988) ("Dependent claims are nonobvious under section 103 if the independent claims from which they depend are nonobvious." (Citations omitted)).

Claims 5 and 6

Appellant asserts that "[n]either of claims 5 nor 6, nor their features, are anywhere addressed in the final office action" (App. Br. 15). We find claims 5 and 6 as being listed with claims 1-11 in the statement of rejection under § 103(a), but we do not find these two claims addressed in the rejection (Ans. 4-6).

Claims 5 and 6 are dependent from independent claim 4, which we addressed *supra* and concluded is nonobvious. Accordingly, we will also not sustain the rejection of these claims. *Fine*, 837 F.2d at 1076.

CONCLUSION

Appellant has shown that the Examiner erred in interpreting the independent claims as being broad enough to read on having an entered PIN code supplied to an application.

DECISION

The Examiner's decision rejecting claims 1-11 under 35 U.S.C. § 103(a) is reversed.

REVERSED

gvw

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